EXHIBIT V - Part 2

Bondi Deposition

whatnot?

A. Well I don't accept -- I don't accept that statement you just made, but I'll answer the question. That's -- there's no -- would have been no easy way to do that other than asking the people who are there. In this case, the medical students are ever present in the hospital. If you actually want to know stuff, they -- they're everywhere, and they also are unobtrusive because they -- because since they don't have like a direct responsibility, you know, as like the residents do, they are -- they are keen observers.

So this was a compelling amount of information that then Mr. Crews, I assume now Dr. Crews provided. Medical students see that kind of stuff. They stick onto -- they stick onto to residents because they want to make sure they don't miss anything, and they also are very eager to please.

Every one of as a resident, as an antidote about a medical student following us into the bathroom because they're so -- they stick to us so much. So that's why I disagree with your statement about him not seeing things. I mean if he was on a rotation at the same time as Dr. Papin, I do believe that he would have a sense of when Dr. Papin arrived and when Dr. Papin saw those patients.

The other thing I would add about a medical student complaint, is for the medical student to complain about a resident's professionalism, that is extraordinarily unusual. Medical students like to lay low, when they complain, they tend to complain about things like, you know, not getting, you know -- you know, having to work long hours, but they do it in private. They almost never make formal complaints because their grades are so important to them.

Q. But you don't know one way or the other whether Dr. Crews was asked if he had any complaints about a doctor or on his own --

A. No. No.

Q. -- volition and freely --

A. You were just asking me about --

Q. -- submitted a complaint?

A. You were just -- you had made the statement that he would not be in the position to observe, and I disagree with that. I think he would actually be the ideal person to observe.

Q. But you don't know for sure one way or the other, you weren't there; right?

A. I wasn't there, but I was asked to hear what he said in the hearing, and I found that his testimony was compelling. I didn't see a reason why he would had

a reason to lie or to fabricate the testimony. And furthermore, he had no reason to bring it up in the first place unless he was really worried about what was going on.

Q. Are you aware of whether Dr. Crews has since ever recanted any of his testimony, and if he did regarding these incidents, would that have changed your -- would that change your opinion materially regarding the fact of whether Dr. Papin, his professionalism and candor issues were as bad as everyone thought they were?

A. You asked a bunch of questions. But the first one is, I have no idea whether he recanted any of this. My last contact with Dr. Crews was on the day of the hearing. And once again, I assume he's Dr. Crews now. He was Mr. Crews then. In terms of whether it would have made a difference, I believe I kind of answered that question at the beginning of the deposition where I said that, you know, there's a bunch of information here. The information that we reviewed, there's a lot of it. Any one thing was not a linchpin in terms of our decision to support Dr. Papin's termination.

I think -- and if the committee were to, you know, we'd have to basically look at what would have changed. You know, one thing wouldn't have made a difference.

Q. There were issues as well that Dr. Crews reported regarding Dr. Papin making another female med student or resident feel uncomfortable, you know in a male to female interaction perspective. Do you know why none of that was brought up here in this Notice Letter, but yet it was brought up at the hearing, at Dr. Papin's Appeal Hearing?

A. I can't speculate onto either of those questions. But my comment to you or to the deposition is, that because that was such an indirect accusation, and there were no facts surrounding it, and the person who was uncomfortable wasn't testifying before the committee, that did not -- that was something that -- that we kind of pushed off to the side. It didn't seem that we could use that to base our decision on.

Q. So the patient that would have been admitted to the ICU, how would that patient have actually arrived there if Dr. Papin had not sent the orders for that person to go?

A. The orders don't necessarily follow the patient flow.

Q. But the patient did make it to the ICU, so Dr. Papin presumably did send the orders. I guess --

A. No. The order -- the orders don't necessarily determine that the -- how the patient arrives into the

ICU. So I don't know the details of where this patient came from. I would assume they came from the emergency department. The emergency department would have emergency department orders. I can't remember at UMMC whether the emergency department physicians put in the order to admit them to the trauma service or the CVICU service or general surgery or whatever service they end up on. But the orders are often -- certainly, in my ICU in Jackson while I worked there, in the pediatric ICU, which is a different environment, as well as my current ICU, the orders are put in as the patient arrives or when the patient arrives or right before they arrive. So the orders don't necessarily determine the fact that the patient is moving in the hospital.

MR. SCHMITZ: Tommy, I've got like five minutes left, then I've got to break for this hearing that I got coming up in 15 minutes.

MR. WHITFIELD: How close are you to finishing?

MR. SCHMITZ: Can we go off the record for a second.

(Whereupon, the deposition was recessed for lunch, after which the following occurred:)

February 3rd, 2021 3:30 p.m.

AFTERNOON SESSION

DR. STEVEN BONDI

having been previously duly sworn, was examined and testified further as follows:

EXAMINATION BY MR. SCHMITZ(Cont'd):

Q. Okay. I'm going to resend the document because I'm assuming you're not looking at it.

A. I am not.

Q. All right. It's posted in the chat.

A. I have it pulled up.

Q. Okay. So if you want to look at page three of four of the PDF, it starts on January 10th, 2017.

A. Yes.

Q. Okay. On January 10th, 2017, that's the same day that -- are you aware that that was the same day that Dr. Earl was having his meeting agreeing to a remediation plan with Dr. Papin?

A. I know that -- I know that now, you know. I know that those -- that that was -- that that was the date of that plan I believe.

Q. Sure. And there's a list of ten things below here that Dr. Mahoney e-mailed Dr. Earl and Ms. Greene. Do you know whether Ms. Greene or Dr. Earl had solicited these complaints on Dr. Mahoney, or that she sent this on her own volition?

A. I have no idea.

Q. Are you aware of whether any of the complaints either by William Crews, Colin Muncie or -- were submitted sort of at random or at the -- were these complaints all submitted at the request of Dr. Earl and Ms. Greene?

A. I have no idea how they came to the attention of Dr. Earl or Ms. Greene.

Q. Number nine, we discussed this earlier. It was reported that Dr. Papin was lying to the Chief resident about seeing patients before rounds. Was there any evidence other than I think the antidotal evidence of William Crews other -- that you're aware of that was considered about the fact that he was lying about seeing patients before rounds?

A. Well first of all, I don't know if I would refer to that as antidotal evidence. But without the qualifier, I believe in the -- I believe there may have been a mention of it in the transcript of the HR conversation, but I'm not positive, that some information from one of the other residents, but I'm not positive. But the large substance came from the medical student Mr. Crews.

Q. Now you have a degree -- one of your majors is computer science?

A. Yes.

Q. And so an at the hospital, they use extensive computer documenting, recording systems, everything that's done in terms of patient care, they're doctor's interactions with patients is simply documented at some point within UMMC's computer system; correct?

A. No, that's not correct.

Q. Okay. So if a doctor is going around and doing -- or a resident is going around doing pre-rounds in meeting patients going room to room taking, you know, vitals or taking notes, that would all be documented within UMMC's computer system; correct?

A. No, that's not correct.

Q. How are those things documented?

A. Pre-rounding is something that residents -- first of all, residents don't generally take vital signs. And you don't want the patient care techs in the children's hospital, it's either techs or nurses.

Second of all, pre-rounding is where residents gather information. They do that by evaluation of the medical record. They do it by, hopefully, by examining the patients. And that information is recorded typically on a piece of paper. Residents will often print a list of the patients on their service and then take their notes on that piece of paper. Later in the day, then they may or may not use that to type notes, to

type, you know, patient -- the status notes that we use. But the pre-rounding is typically not memorialized anywhere electronically.

Q. So there would be no documentation showing anywhere whether a resident did or did not do his pre-rounds?

A. There wouldn't be any notes of it, no.

Q. Any other documentation that would be able to show one way or the other whether somebody was coming to work at a certain time or --

A. I mean they're -- I -- I -- I mean I'm sure there are cameras in the medical center that can show whether someone is there or not. But I don't know where those cameras are. The use of one's badge is recorded. I don't know what the retention on that is. There are -- certainly, when one enters into the medical record, there's an audit trail. How robust that audit trail is, I don't know, in terms of how long it's kept or -- but my understanding is that it's fairly robust.

Q. Would the residents access be accessing the patients that are on their service to create that at least not even if they weren't doing notes, but just the fact, that, hey, I opened up this patient's chart electronically at 7:30 a.m. on a Tuesday?

A. That -- that -- that is within the capability

of the system. I don't know what the specific capabilities of UMMC's system is right now, but it's supposed to have a fairly robust audit trail. Yes.

Q. Were you or Dr. Papin provided with any evidence during the time period where Dr. Papin was alleged to have not been doing his rounds, any audit trails or any documentation to support the fact that Dr. Papin was, in fact, not seeing his patients before rounds?

A. No.

Q. The next one, number ten. It says: "Dr. Papin was dishonest about examining a patient that developed a sacral decubitus wound" -- that's what we've been talking about today -- in addition, to the concern of dishonesty, the other concern had to do with a detrimental action to patient care. Dr. Papin having told Dr. Mahoney that, upon his observation, a patient did not have any skin changes. When the patient was seen by Wound Care, they reported a severe ulcer that was so significant, surgery was required. This could not have happened over the course of a few days and the resulting action could have lessened had Dr. Papin examined the patient and reported it."

And again, you said you did not review any of the records for this decubitus ulcer patient; correct?

A. That is correct.

Q. And would it have changed your opinion regarding this event in potential capability of Dr. Papin, if you had known at the time of the hearing, that a review of this patient's medical records, which show that Dr. Mahoney looked at this patient's records, which included notes and pictures of the decubitus ulcer and its development in the three, two -- two to three weeks prior to this?

MR. WHITFIELD: Object to the form.

Q. (BY MR. SCHMITZ) She reviewed those notes 73 times according to the audit trail?

MR. WHITFIELD: I'm going to object to that as a mischaracterization of that document. It does not say she looked at the wound care notes.

Q. (BY MR. SCHMITZ) Okay. But she looked at the patient's chart 73 times over the three weeks, would that change your opinion of whether she was unaware of this?

A. It might. I think it would -- it would depend upon a broader picture.

Q. Okay. Would it change your opinion at all regarding the capability of Dr. Papin if even up to the day -- right up until when the wound -- decubitus ulcer wound was found, that there was a scab covering the

wound that concealed the observation of the depth of the ulcer prior to when it was brought to Ms. Mahoney's attention as being something of -- her prior to her alleging that this was Dr. Papin being untruthful about examining the patient?

A. That would not change. That would certainly not change my impression, no. Because the scab or the word you'll see is "eschar." But that's part of the wound itself, and that requires evaluation.

Q. Would a first-year resident typically know that you have to peel back the scab, or is that sort of a teaching moment for something like this?

A. I can't comment on that because I'm not a surgeon nor do I supervise surgical residents. I think that question is better suited to a resident in -- or to a surgeon.

Q. But you do see in Pediatric ICU, would a first-year resident in the Pediatric ICU under your supervision, would you expect that person to know that if someone has a scab on their back, that that scab should be peeled back to check for decubitus ulcers?

A. Wound care is a core competency of general surgery. So that would be asking me as if a first-year law student had known that really because it's apples -- it really is apples and oranges. Wound care is not a

core competency of the pediatric resident. First-year pediatric residents do not rotate in the I -- do not rotate in the Pediatric ICU, which is where you'd see the majority of wounds, if any. So I -- I -- it's just not a fair comparison.

Q. Fair enough. And, obviously, there was no review, to your knowledge, of this patient's medical records or charts by anyone within risk management that the nursing coordinators as you put them earlier, they never viewed any of these records to provide you what their opinion would be on the care that was provided to this patient?

A. I can't say that, and this is why. It didn't rise to my level. But it would be extraordinarily unusual as I stated before, for a -- for a decubitus ulcer, even a severe one, to get to -- to get to my level unless there was litigation involved.

So even a contemplation of litigation might not even got up to that level. Because wound -- wounds are very common. They're typically dealt with at the unit level by the unit manager, nurse managers, and even if one of the nurse coordinators in risk management reviewed those, it's unlikely they would have gotten to my level. So I do not have any -- I do not know whether they were reviewed.

Q. Would it change your opinion regarding Dr. Papin's termination, if up until the discovery of the decubitus ulcer on this patient, that wound care was still advising conservative treatment of the scabbed area for quite some time prior to this?

A. I don't think this incident by itself, even if you completely erased it from the record, would have changed our determination. This was one of many many incidents that we assessed and reviewed, and one of them were even -- several of them in isolation were not what the decision was based upon.

Q. But part of this incident, right, is the allegation that he was not being truthful regarding the examination of this patient; correct, that that was really -- it wasn't that the wound happened or not; right, I think the main concern for you was that he -- there was allegations that he had lied about whether he examined this person and that had resulted a patient harm; would that be fair?

A. Yes.

Q. Okay. And so if it would show that maybe he did not lie about that, and then wouldn't that cause the question many of the other things regarding his professionalism, which was the overarching theme of why he was -- why he was terminated?

A. These incidents were different and distinct. And so like I said, one incident by itself or even one -- you know, several of these incidents, would not have changed the calculus. There were so many different -- there were so many different factors involved.

Q. So previously you testified, that it was kind of a big deal that whether Dr. Papin had contacted anyone to admit the patient to ICU, that if he had not let them know that the patient was coming, that that is kind of a big deal; right?

A. It's not kind of a big deal, it's a very big deal.

Q. Okay. So if that's a very -- was any efforts made to determine who this patient was or to find their medical records to see what was going on or to look at call logs or do anything to try to see maybe -- maybe somebody on the ICU team wasn't being truthful because they dropped the ball, and it wasn't Dr. Papin?

A. My understanding from the documentation, was that the other residents and the nurse -- the other physicians and nurse practitioners that were in the ICU were asked if they received sign on, on this patient from Dr. Papin, and that the answer was no across the board.

Q. But wouldn't those nurses get in trouble,

potentially be disciplined if they were to admit to something like that?

A. Well it's not there weren't -- this isn't nurses. It's nurse practitioners or physicians.

Q. Okay. So either a nurse practitioner or a physician. If a nurse practitioner, which that's what Dr. Papin said he spoke to, if it was a nurse practitioner that had potentially made a mistake, wouldn't that person be subject to discipline, if they answered yes to that question?

A. I think anybody that was dishonest in dealing with patient care, there are potential ramifications for that. Yes.

Q. But yet it was -- but you made the conclusion that only Dr. Papin was dishonest and there was no potential that there was somebody from the --

MR. WHITFIELD: Object to the form.

Q. (BY MR. SCHMITZ) -- another side of the story with respect to the admittance of the patient into the ICU unit?

A. No. Because Dr. Papin explained that he talked to somebody, he wasn't sure who it was. And then maybe -- and then later said maybe it was a nurse. So we heard his side of the story, and it was clear from what he told us, that he didn't make sure who he talked

to was the right person.

Q. But there's two sides to that story; right, there's two potential outcomes. So either Dr. Papin was lying or that person on the other end that Dr. Papin spoke to allegedly; right, was lying?

A. That's not what I said.

Q. No. No. I'm not saying that's what you said. I'm saying, there has to be two sides. So there was either Dr. Papin was lying or the person who took the phone call that Dr. Papin said he made was lying; right, if --

A. I disagree.

Q. -- that even happened. Did anybody --

A. I disagree.

Q. Did anybody follow-up -- did anybody investigate that further and write those people up for not receiving the patient or taking those orders as they should have?

MR. WHITFIELD: Object to the form. If you can answer that, go for it.

THE WITNESS: Well it was a couple of statements followed by a question. So to answer the statements. It is true that either the call occurred or the call didn't occur. But there's also a bona fide question as to, if the call did occur, who did Dr. Papin

talk to. And Dr. Papin said that he wasn't sure who he talked to. That in of itself is a problem. When I make -- when I give sign on, on a critically ill patient, one of my patients is going to the operating room; for example, I call the anesthesiologist who is responsible for that case. I talk to that person by name. I understand that person's role, and then I sign the patient up -- out. I just don't call a random person and sign the patient out not knowing who they are.

Q. (BY MR. SCHWARTZ) But do you remember if you -- 'cause this says on January 3rd, she sent an e-mail to Renee Greene outlining an incident that had occurred the prior weekend. So by the time Dr. Papin was given notice of this incident, potentially maybe by Dr. Earl, it was three weeks later. Do you remember three weeks ago if he talked about some patient that -- you know, I mean at three weeks, once that much time goes by, wouldn't it be reasonable to assume that he probably wouldn't remember maybe even seeing that patient at all?

A. Well that's a different -- the latter thing is a different question. But I take sign out and give sign out the same way every single time I do it. It's something we focus on. It's actually -- sign outs are very -- have been identified as a high risk area for patient care. Every time a patient is handed off,

there's a risk to that in terms the information that's exchanged not being done effectively and not harming patient care.

So handoffs are huge in patient safety. That's why we make such a big deal out of them, and that's part of the substance of what we're talking about. So, no, I wouldn't just pick up the phone and say -- and say, "I'm signing this patient out." I would say, you know, "Is this Dr. Smith, the anesthesiologist who's going to be caring for baby Jones in an hour." And they do likewise to me. They would call up and -- and frankly, I know -- at my level, I know some of these people by name, so. But even when it's people I don't know, it's an attending from the emergency department. I'll answer the phone, they'll say, "Is this the PICU attending." I'll say, "Yes. It's Steve Bondi, I'm the PICU attending that's on today." And then they'll say, "I have a patient to sign out to you." And I'll say, you know, "Let me grab a pencil" or whatever. And then they sign the patient out to me in a structured way.

This is -- this is not a -- this is not a spur of the moment conversation. These are semistructured exchanges of information that are critical for patient for patient. So, yes, I can say for certain that I signed out three weeks ago or three years ago, that I

knew who I was talking to on the other end of the phone because we all -- I always do it the same way.

Q. You would be able to figure that out because you take notes about that?

A. Well I take notes when I receive the information. But I can tell you that I always identify the person I'm talking to. The only thing is, I'm not allowed to give patient care information to someone who's not directly involved in the care of that patient. Because that's -- that's -- that's -- all of that's bounded by HIPAA, and we get tons of training on that as well. We need to make sure that that exchange of information is to the right person. So that's a critical aspect of this. You just don't call up and start -- start signing a patient out.

The other thing is, is that if a -- you know, it wouldn't make sense for a nurse to take sign out from a doctor anyway. So I, you know, it'd be unlikely for a nurse just to sit there and get that exchange of information. I guess that is possible. But the person making the sign out has an obligation to make sure they're signing out to the right person.

Q. But a nurse practitioner, that's -- that's acceptable scenario?

A. Well nurse practitioner is a different role

than a nurse.

Q. I understand that.

A. A nurse practitioner is a provider. A nurse is a -- is a nurse.

Q. Right. The next part, it says: "Ashley Griffin, RN, registered nurse?

A. Yes.

Q. Sent e-mails on the 9th and 10th citing seven incidents of inappropriate behavior by Dr. Papin:

Leaving the hospital during a code.

Did not show up on time to pre-round or to get sign out.

So the sign out -- sign in, sign out when the physicians turn in or relieve one another or residents, you know, at the end of the shift. There's timestamp records of that; right?

A. No.

Q. Don't they have to sign in and actually sign out a piece of paper that I'm Joe Papin, I'm showing up at 5:00 o'clock?

A. No.

Q. What is the sign in, sign out process then?

A. You're expected to be at the hospital at a certain time. You know, you formally have a time that you would be expected to be there. Residents frequently

come in early if the workload dictates that. There are work rule requirement in terms of accounting for your hours but, frankly, most of those are done after the fact, in my experience. I haven't had to account for my personal hours since I was a fellow, which was almost ten years ago.

But I don't -- maybe they do something differently in surgery but -- in terms of formerly signing in, I don't know. But the sign out is when you're signing patients out, not when you're signing yourself out as an employee. It's not like a nine o'clock maneuver. But when we refer to sign out, my service has 20 patients, the oncoming doctor and I have to have some formal communication for us to talk about those patients, it's another example of the handoffs we were talking about before.

Q. Okay.

A. So, typically, what would happen is, when you arrive in the morning, you would get there at a certain time 6:00 o'clock, 5:00, whenever it happens to be, and the resident who is leaving who was on overnight, would sit down with you, maybe it might be a team because they may be signing out patients to different -- they may be signing out a pool of patients to one, two, three providers perhaps. And then they give -- they update --

they update the new provider on anything that happened with that patient overnight that was significant and any new patients that were admitted to the service. That's what sign out refers to, and then that process would happen again in the evening when the rever -- you know, when the daytime person will sign in to the nighttime person.

Q. Were there complaints from any providers regarding Dr. Papin not showing up on time for these sign in sign out meetings to relieve them from their patient care duties?

A. We certainly did not discuss that at the hearing itself. Whether or not there was anything on the -- in the resident -- in the resident evaluations, I don't recall.

Q. Number four and five. "Dr. Papin tried to send a patient home that was not competent despite being warned." Do you recall any discussion of that or doing an investigations of that?

A. I certainly did not do an investigation of it. I don't recall that. I don't recall that being brought up in the hearing.

Q. Number five, "Dr. Papin made the female trauma student incredibly uncomfortable, tried to be alone with her, and preferentially chose her over the males." Did

you do any inves -- what was the discussions regarding that, to the best of your knowledge?

A. I certainly did not do an investigation of it. And as I mentioned earlier before the break, we felt that the information provided on that was, there simply wasn't enough information there to have that be a consideration of our assessment about whether the termination was warranted.

Q. Do you know whether that female trauma student ever filed any kind of complaints with HR or anything regarding harassment or --

A. Yeah. I would have no idea. It certainly was not brought up in the hearing. And HR is of, you know, that's an entirely different process. And so that would not have come -- that would not have come to me at risk management.

Q. Number seven. "Dr. Papin was told to washout a massive wound on a trauma patient in the ICU. He did not do it and left." What evidence or basis was provided to you to substantiate that claim?

A. If I recall correctly, and I'd have to check the transcript to verify this, that one -- one of the other residents brought that issue up. That would -- not Dr. Griff -- well it might have been Dr. Griffin. Not Dr. -- I'd have to look at it. But it was -- I

believe we did discuss that in the hearing.

Q. And do you recall Dr. Papin's rebuttal to this claim that he did not washout this wound on this patient?

A. I believe he said that he did it. Yes.

Q. And do you recall Dr. Papin saying that he had text messages from another resident as well who also washed -- who also claimed to washout the wound and can (undiscernible) text messages on the same date and time he was alleged not to do that, and that the person claiming he did not wash the wound came after both of them, so that would have to make it so that both of them did not wash out the wound when they said they did?

A. I would have to refresh my recollection on that one. I don't remember that particular aspect of it.

Q. Did you ever -- would you have had access to this patient's records to see if there was any audit trails or logging into to this patients things to do a wound washout or a procedure like that on -- if you had wanted to?

A. I had access -- I would have had access to any of the patients in the medical -- in the medical record and appropriate access due to my role in risk management. I did not ever look for that information.

In terms of the audit trail, there's some stuff that you can see, but a lot of the stuff you have to actually ask for a specific query on that, and I didn't have the ability to get that kind of an audit trail, I would have had to request that to get that, if I wanted it, and I did not.

Q. Other than the -- in the next paragraph, it talks about Dr. Earl meeting with Dr. Papin numerous times giving him feedback. Other than the December 20th, 2016, e-mail that Dr. Earl sent to Dr. Papin and the remediation plan that they both signed on January 10, was there any documentation -- other documentation of counseling sessions that Dr. Earl had made a record of to show which issues he had been bringing up to Joe since the beginning of his residency?

A. Yes.

Q. What other documents did Dr. Earl provide you regarding that?

A. There was the November -- well Dr. -- I don't believe Dr. Earl provided them to me. They were part of the materials at the hearing. And as I mentioned before, I think actually Mr. Dillard is the one who gave me the packet. But there was his November summative evaluation for his first -- first half of his intern year.

Q. Other than those dates, so November, December, we've got two documentations of two meetings between Dr. Earl and Papin, prior to that, there's -- it was just -- there's no -- there's no documented counseling --

A. There's no document of the conversation.

Q. -- sessions?

A. There is the -- there are the monthly -- the monthly feedback that one would get after each rotation. But there's no documentation of a conversation between Dr. Papin and Dr. Earl attached to those. If that's the question?

Q. And you don't recall whether you had any part in providing this Notice Letter or working to provide this Notice Letter to --

A. Oh, I do recall that I did not have -- I did participate in the providing of this Notice Letter. This is the first time I've seen this letter to my -- the best of my knowledge. I certainly did not draft it.

Q. Okay. All right. The next exhibit is posted.

A. E-mail-Meeting with Bryce.pdf?

Q. Yes.

A. Okay.

Q. Can you tell me what was discussed during this meeting between you and Bryce?

A. Yes. It was who was going to be on the

committee.

Q. Okay. And what was that specifically?

A. We were trying -- we had a relatively short timeframe to put together the committee. And it was made difficult by a number of factors. Number one, July a frequent vacation time, you know, especially, in Mississippi where the kids go back to school right at the beginning of August. So that had to be factored in. Physicians have pretty tight schedules, you know, whether it's surgery or clinic or whatever there might be. So that was a challenge to make sure that we could accommodate people's schedules on short notice, which is, I can tell it's a nightmare to schedule -- to schedule meetings.

The other thing is, there's -- we needed a house staff member on the committee, another resident to get the resident's perspective of the process. The residents, I'm trying to think of what the right word is, they move to the next level on July 1st, so a fair number of the people who had been on the Graduate Medical Exchange Committee for residents would have graduated, so we not only had to find a resident, we had to find one that didn't graduate two weeks earlier. So all that took a lot of time and effort. And that's what Bryce and I were -- I was talking to Bryce about was

getting that committee together.

Q. Was there a resident on the panel?

A. There was.

Q. Which panel member was that?

A. Hold on one second, I can tell you because I've got the letter pulled up over on my computer. It was Nilda Williams.

Q. Nilda Williams. Okay. Did you meet with anyone else regarding the appeal hearing other than Bryce?

A. I might have met with -- because I saw a comment in one of the e-mails you were showing me earlier. It talks about a Shirley. Shirley is Shirley Schlessinger who was, at that time, Rick Barr and Shirley were doing a handoff of that job. So Shirley was the former -- I think the position is actually -- it's Dean of Graduate Medical Education or Associate Dean, and so Shirley was handing off and Rick was taking over. I might have talked to her, I don't remember. I don't remember a conversation about it.

But Bryce -- Bryce was -- was -- was really the important person in terms of getting the -- getting everything scheduled and getting the people there. And then I did have conversations -- certainly, had conversations with the hospital counsels.

Q. And any meetings with Dr. Earl?

A. No. Not that I recall.

Q. Any meetings with Dr. Barr?

A. I don't remember anything specific with Dr. Barr. I met with Dr. Barr all the time on a variety of issues. I can tell you we didn't talk about substance at all. Because I base -- in terms of the specifics of the allegations because I really didn't dive into that until the hearing itself.

Q. What would you talk about that was not substantive?

A. We may have talked about the procedures. I don't have a specific recollection of anything with him.

Q. In terms of what procedures needed to be followed for due process to be provided to Dr. Papin?

A. I doubt that -- I doubt that I spoke to that -- you used those words with Dr. Barr. That's not whose advice I would have sought on that issue. But we may have talked about, you know, who was going to be on the meeting; meaning, faculty members, not the individuals, but the type of people that was going to be on the committee. But I'm just speculating now because I don't recall any specific conversation with Dr. Barr.

Q. In persons which you consulted with regarding the procedural or substantive due process issues, legal

counsel for UMMC, would that be Tommy Whitfield?

A. That will be Mark --

MR. WHITFIELD: I'm going to object going into the legal field.

MR. SCHMITZ: Yeah. I just want to know whether it was you or not that was advising him. I don't want to know the substance.

THE WITNESS: Is that okay, Tommy?

MR. WHITFIELD: I'm going to have him stand on my objection as to who was involved or who he -- he talked to legal, you know, we can leave it at that.

MR. SCHMITZ: He talked to Lee?

MR. WHITFIELD: Legal.

MR. SCHMITZ: Oh, legal. Can we go off the record for a second?

MR. WHITFIELD: Sure.

(Whereupon, an off the record.)

Q. (BY MR. SCHMITZ) All right. So when you consulted with legal regarding the substantive and/or potential procedural due process requirements for Dr. Papin's hearing with UMMC's legal team, who was present from UMMC's legal team at that meeting?

A. First of all, I would say, I didn't have any specific conversations about the breakdown of

substantive versus procedural due process.

Q. Okay.

A. I didn't have that conversation with any --

MR. WHITFIELD: You can't answer that.

Q. (BY MR. SCHMITZ) I don't want to get into the substance now, you know.

A. So I had meetings regarding -- regarding the process of these hearings with Mr. Ray and Mr. Whitfield.

Q. Thank you. Next exhibit is up. This is your notebook, your notes that you had taken. And the first question -- take a look at it, and take your time, but the first question, are these your notes and your handwriting?

A. So I need you to ask that question formally.

Q. Are these your notes and is this your handwriting in this exhibit?

A. So for pages one through eight, they're are my notes and my handwriting.

Q. All right.

A. But pages nine and ten, that is my wife's handwriting. I dictated that letter to her when I was -- when we were driving on a long drive across country.

Q. Oh, nice, okay.

A. So that's her handwriting, which you can see a

distinct change. But it was -- those are my words.

Q. Fair enough. Okay. When did you take these notes?

A. So I'm just scrolling up here. Sorry. So I'm going to go out of order. So page two, those are the notes, like page two, that's starting my notes I took during the hearing itself.

Q. Okay.

A. So page two, page three, page four, page five, page six, page seven, and page eight, so those are all -- those pages two through eight are my notes that I took during the hearing itself.

Q. Okay. In terms of page one?

A. Page one are the notes that I took during my conversation with Mr. Whitfield and Mr. Ray.

MR. WHITFIELD: Okay. Based on that, I'm going to make an objection to that being privileged notes an inadvertent disclosure under the case management order.

MR. SCHMITZ: Fair enough. Okay.

THE WITNESS: I do not know the date of that document.

MR. SCHMITZ: So you're instructing him not to answer any questions regarding page one --

MR. WHITFIELD: Correct. And I'd ask

that be redacted and returned.

Q. (BY MR. SCHMITZ) I'm trying to think about this for a second. Are you aware of what UMMC's policies and procedures are regarding residency remediation plans?

A. Not anything specific, no.

Q. Okay. Do you have any sense or idea when remediation plans are supposed to be given to residents or when they're not offered to residents, I mean what are the distinguishing factors of what it is or is not offered?

A. No.

Q. Is it your experience that residents typically are residents that are having issues, whether that be academically or conduct related, are giving warnings and put on those types of remediation plans and given a chance to not continue doing whatever conduct warranted them getting on the remediation plan in the first place?

A. I think that depends. Certainly, academic deficiencies, there is -- there would be opportunities to remediate. Conduct, that's such a broad category, I don't think I can make a comment about that because there are obvious situations where someone would not have an opportunity to remediate based on their conduct.

Q. And you believe that Dr. Papin should not have

had the opportunity to remediate based on his conduct in your general experience in the industry?

A. I believe that he did have an opportunity to remediate --

MR. WHITFIELD: Object to the form.

Q. (BY MR. SCHMITZ) Sorry. You can continue your answer, I don't know if you're done.

A. I said I do believe that Dr. Papin had plenty of opportunities to remediate his conduct.

Q. In terms of being given a formal actual remediation plan that's, you know, a performance improvement plan where everything was signed out, where he's giving a set timeline to improve, do you think that Dr. Papin should not have gotten that based upon his conduct?

A. I believe he got plenty of notice an opportunity to remediate and that he was -- that specific instances of his behavior, his conduct, his poor communication were discussed with him, and they got -- the situation got worse, not better.

So I don't -- I think that he got notice an opportunity to remediate. And he was --

Q. Well that's wasn't --

A. -- oh, go ahead.

Q. The question I asked was: Based upon your

knowledge and experience, in this case, he was giving a formal remediation plan on January 10th and him and Dr. Earl both signed, that later he never actually got a chance to go through that plan with him because he was placed on administrative leave after that and never returned.

But do you believe that in these circumstances, I mean, obviously, there was a belief at least within UMMC that he should have -- because it was presented to him and he signed it, a chance to remediate his conduct?

A. Based on the information that I learned at the hearing, I do not believe that he should have been given formal -- an opportunity after that to remediate, no.

Q. Do you know why he was offered the remediation plan on January 10th, and then that -- what was the reason for the change in UMMC's position that on January 10th that he should get one and then shortly thereafter, that he was not going to have that chance to do the things that they agreed to do with him in that document?

A. It is my understanding, that Dr. Earl believed that he was required to do this before terminating Dr. Papin. And that -- that is my understanding.

Q. Why would Dr. Earl as the Program Director for the General Surgery Program believe that he had that

requirement?

A. I have no idea, you'd have to ask Dr. Earl.

Q. Are there any type of ACGME guidelines or requirements regarding remediation plans for residents?

A. I believe they're mentioned. I don't know the specific requirements. No. I don't believe there are -- I don't believe there are.

Q. In your role as the Chairperson over Dr. Papin's appeal, what was your understanding of the scope of your review of Dr. Papin's termination?

A. Whether -- I -- let me rewind that, I'm sorry. The first question is whether -- the first question we look -- that was important to us was whether he had notice an opportunity to improve to remediate. And then also whether the -- whether they're based on the information that we were provided, whether there was enough there to support his -- his termination.

Q. In your evaluation of the evidence that was provided to you, did you make any determinations regarding certain evidence that was provided to you not meeting a sufficient level of being substantiated or worthy of consideration that you -- that you may have dismissed in your decision to uphold Dr. Papin's termination?

A. I don't think we speci -- you know, with the

exception of the -- the inappropriateness with the female student, I wouldn't say we -- we -- we dismissed anything. I think that we weighed it.

STENOGRAPHIC REPORTER: I'm sorry. It's froze.

THE WITNESS: Pardon?

STENOGRAPHIC REPORTER: I didn't get all of that, it's freezing up.

MR. SCHMITZ: Oh, okay. Is it better now?

STENOGRAPHIC REPORTER: I can hear you now.

THE WITNESS: Can you hear me?

STENOGRAPHIC REPORTER: I can hear you now, sir.

THE WITNESS: What was the last thing you heard me say?

STENOGRAPHIC REPORTER: "I wouldn't say we dismissed anything. I think we weighed it." And that was it.

THE WITNESS: Yeah. I wouldn't say that we dismissed anything except for that inappropriateness allegation, which we completely disregarded from our calculus. What we did, was we weighed the evidence and we weighed Dr. Papin's rebuttal.

Q. (BY MR. SCHMITZ) Well let me change it then, not dismiss it, but were there anything that due to a lack of supporting evidence, was there any other facts which you weighed much lower than other, you know, I'm trying to get a sense of what you weigh as most important specifically and what you guys weighed at least important in your decision to uphold this termination?

A. I think that's really hard to say. Because we didn't really -- it wasn't like we were sitting around the table and ranking things. We discussed --

Q. In your mind -- in your mind? I mean in your mind what is -- what is -- what was the -- of the facts that we went over and the Notice thing before, what is the most important things that really cemented in your mind as upholding his termination, and what were the least important things?

A. Certainly, the most important things were the lack of professionalism and poor communication and inability to get along with team members. That was very high on there.

Q. It's pretty broad in terms of professionalism getting along with people. Was there a specific incident or interaction that he had with somebody?

A. You know, there were a lot of incidents and

weighing them all together was how we came up with the decision. You know, we talked about a lot of different things. We reviewed the testimony. I can't really point to any one thing that was the most important or any one thing that was the least important because that's not the way the discussion went.

Q. Did you consider any alternative options to offer Dr. Papin in lieu of termination such as resignation or --

A. That was not my role. I was asked to conduct a hearing to determine whether or not his termination was justified, and that's what we did. We reviewed the --

Q. Do you know -- do you know whether you would have had the ability to make that decision or make that offer, if at the conclusion that you offer an alternative path, potentially, some alternative path, whether that be, you know, increase surveillance of Dr. Papin's work activities or resignation or any other alternative to termination?

A. That -- that was not an issue that we discussed in the deliberations. I know that specifically the question was raised by one of the faculty members during the hearing itself about whether Dr. Papin was offered the opportunity to resign. If I

recall, I basically said that that's not what we're here for today when he asked that question.

I was asked to do a specific task, and that's what I did, and that's what we did.

Q. The hearing transcript is up as an exhibit. Without having to obviously look at the all 117 pages of this thing, I just kind of want to direct your attention to a couple of pages.

A. Bear with me. It's going to take a few minutes to load. I probably got three kids watching videos right now.

Q. I only have two, but I'll have three on Saturday.

A. Well congratulations.

Q. Thank you. Thank you. First boy coming, I have two girls now, so.

A. Okay. I can see it now.

Q. Okay. Well let me ask -- before we go to this. So you were sort of directing traffic during the hearing as the Chairperson for the hearing. Did you create an outline of anything you wanted to ask Dr. Papin or anything like that prior to the hearing?

A. Nothing prior to the hearing because, frankly, I knew very little about this case walking into the hearing. I was in thinking about this, I don't even

think I had the documents in advance. I believe they were sent out to other faculty, the other members of the committee. But I think I believe I was actually left off that e-mail in reviewing some -- in reviewing the e-mails. So I don't -- I don't think I knew hardly anything about this until I walked into the room.

Q. So you hadn't reviewed any of the documents or the evidence presented to --

A. I do not believe that I --

Q. -- which supported Dr. Papin's, the allegations being brought against Dr. Papin except until you walked into the room for the hearing?

A. I believe that is correct.

Q. Do you think that that complies with procedural and substantive due process to provide Dr. Papin with a fair hearing to have the Chairperson of the hearing not to have reviewed any of the documents prior to the hearing?

A. I think it absolutely does. That's like judges hear cases all the time without hear -- seeing the documents in advance. I don't think the standard is that the individuals that are hearing the case, should review the evidence, some of which is very one sided because it comes from one side or the other in advance of the hearing. I think that actually would -- I don't

think that that's what that means.

Q. Without having prior review of the evidence to support Dr. Papin's termination, do you think that you were prepared to ask him the appropriate questions or have the appropriate follow-up necessary to substantiate the actual allegations or the basis for these allegations that were made without reviewing documents?

A. We were relying on the witness testimony. And Mr. Papin had his attorney present and had the opportunity to speak to his attorney before and during the hearing. And so he was able to put forth issues that he thought benefited his position.

Q. So I mean in an appeal hearing for a resident being terminated, right, it's a big deal because this is basically someone's career one way or the other on the line; correct?

A. Sure. Sure. Yes. Yes.

Q. And so you didn't think it necessary as the Chairperson for that hearing, to even take the 20, 30 minutes out of your time to review the documents that were regarding the case that you were going to be providing an opinion on, thumbs up or thumbs down on whether this person gets to be a doctor essentially or not?

MR. WHITFIELD: Object to the form.

THE WITNESS: Like I said, we were able to review those documents in realtime. We were able to hear from the witness. The witnesses were able to provide, you know, the reference -- specifically, reference the documents. I don't know of any standard that says that the committee hearing of matter should review the evidence before it's presented. Certainly, in my one year as a law clerk, I never saw that happen in a U.S. District Court.

Q. (BY MR. SCHMITZ) But briefs and motions would be submitted prior to submitting --

A. But not the evidence.

Q. -- a motion; correct?

A. Briefs certainly would be and legal arguments. But the evidence -- the evidence was brought in by the parties during the hearing or the trial itself.

Q. They attach those as exhibits though to the motions and briefs?

A. Certainly, not always. I would say less, you know, certainly, not in the criminal cases we heard.

Q. Well that's criminal; right. In civil cases, you know, would --

A. But I -- I.

Q. -- attach the actual, you know, represented the documents as Exhibit A, you know, to support their

motion. To support motions. I mean I just did that in the hearing I was in a minute ago. That's the regular course; correct?

A. Parties have an opportunity to do it in the court of law to attach exhibits. Whether or not they're reviewed is another thing all together, in terms of -- in terms of actual evidence that's presented in the trial. It depends upon the style of the fact finder.

Q. And you think it's fair and reasonable for you to be the Chairperson of this committee with all -- what is at stake on behalf of Dr. Papin and to not have reviewed anything before walking in there, any documents, any of the evidence to make any at least determinations on how to direct the traffic or ask questions, no preparations were necessary prior to this? That's your -- that's your --

MR. WHITFIELD: Object to the form.

THE WITNESS: Yeah. First of all, I resent the statement or the pointed question that there was no preparation, that is false. In terms of reviewing the evidence on my own outside of the hearing and outside of the ability of the parties to be able to inform my view of that as a finder of fact, I would say that that was the appropriate thing to do, and I would hope that if I were in a hearing, that I wouldn't be

pre-judged by the person running the hearing.

Q. (BY MR. SCHMITZ) And back in January when you were first talking to Dr. Barr or Dr. Earl regarding this, when they were requesting the iCARE reports or patient complaints on Dr. Papin, they had not informed you of any of their reviews prior to this?

A. First of all, I don't recall any questions -- any conversations with Dr. Barr in January at all. I was at -- I don't recall any specific conversations with Dr. Earl as is shown in the e-mails, there was a request to obtain information about Dr. -- or whether Dr. Papin was contained in any of our data bases, which based on the documents, I had Darlene Bryant do.

Q. So you just got that request out of the blue and you had no -- there was no, hey, Dr. -- or Dr. Earl didn't come to you and say, hey, we call you up and say, hey, we've got this resident that we're -- that we're, you know, he's in the disciplinary process, I need you to see if there's been any patient complaints or anything, with no discussions of that substance or related like --

A. I don't recall -- I don't recall the substance of the conversation at all as I've said multiple times. What I can tell you is, if I was told that this person was going to be terminated or suspended, I would have

remembered that conversation. That's an extraordinary unusual event.

Q. Okay.

A. As opposed to the day, you know, multiple times a week when I was asked about, hey, there's a patient on 77 west, did you get an event report. And I'd say, well, you know, let me go find out. So those requests for me to gather -- to gather information on other's behalf were common.

Q. The tables have been turned?

A. Yes.

Q. And Dr. Papin was your hearing, your hearing chairperson and your termination hearing and you were the resident?

A. Yes.

Q. Would you want Dr. Papin not to review any documents that substantiated the allega -- that allegedly substantiated allegations being brought against you that --

A. I would --

MR. WHITFIELD: Object to the form.

THE WITNESS: I would not want him to review the documents. I would like him to go into the hearing with an open mind, listen to what both sides have to say, and inform his impression on those

documents based on that conver -- based on what was in the hearing room on the record as opposed to what happened outside.

Q. (BY MR. SCHMITZ) Okay. All right. Going to -- I'm going to be talking about the pages of the transcript itself, not the pdf's.

A. Got it.

Q. Page eight of the transcript.

A. Yes.

Q. Okay. If you look at the beginning of the top of the page at that. You're wading through I guess the ground rules for the -- what the hearing is going to be like. You're talking that Dr. Papin -- well I guess on the top of page seven, you're saying Dr. Papin will have the opportunity to address the committee, but not Dr. Earl specifically. And then followed up by any witnesses Dr. Earl thinks is appropriate.

Was Dr. Earl allowed to address Dr. Papin specifically and ask him questions?

A. No.

Q. And then Dr. Papin, it says will also have the opportunity to specifically address issues that are brought up at the time to the committee. And I guess you're talking about I guess at the very end of the presentation that each party will have an opportunity to

address the committee. On line 19, you said: "Furthermore, this is not a lawyer process." Correct?

A. Yes.

Q. But you're a lawyer; correct?

A. Yes. Well I'm an attorney by training. I'm licensed in the State of Connecticut in the Commonwealth of Massachusetts, and I maintain those professional licensure, but I'm not a practicing attorney. I don't -- I didn't represent the institution as an attorney.

Q. But you're a licensed attorney?

A. Yes. But not in the Miss -- not in the State of Mississippi. Employed as an attorney.

Q. So while this wasn't a lawyerly process, you were the only lawyer that was allowed to ask questions; correct?

A. Yes.

Q. And at the time of this hearing, you were an UMMC employee to ask -- doing what they asked you to do?

A. Yes.

Q. And you said that Joe -- Dr. Papin was not allowed to cross-examine witnesses; correct?

A. No one -- neither side was allowed to cross-examine witness -- was allowed to cross-examine witnesses.

Q. But you cross-examined witnesses; right?

A. I wouldn't necessarily call it "cross-examination" because that implies an adversarial nature of what we were doing.

Q. Right. You were asked -- you were able to directly ask witnesses questions; correct?

A. Yes. As were all the members of the committee. And, frankly, they asked more questions than I did.

Q. And so you're a lawyer and also an employee of UMMC, and you're the only one that's allowed to ask -- answer questions; correct?

A. No --

MR. WHITFIELD: Object to the form.

THE WITNESS: -- every member of the committee were allowed to ask questions.

Q. (BY MR. SCHMITZ) But you were the only lawyer in the room asking any questions; correct?

A. Correct.

Q. I'm going to go to page 10 of the transcript. And it's lines 21 and 22.

A. Yes.

Q. You reference the solemn decision that you have to make?

A. Yes.

Q. At that point, the solemn decision, you had

already made your decision, at that point?

A. I'm sorry?

Q. You had already made your decision to uphold the termination of Dr. Papin?

A. No. Of course, not.

Q. Well what else would be a solemn decision that you have to make?

A. We have to make it, that's future tense.

Q. Ten pages into the hearing, you're already talking about the solemn decision that you had to make? What was --

A. Of course, this was -- this was a serious procedure. Your client's career was in the balance. We took that very seriously.

Q. But doesn't you as the Chairperson of that, using the word "solemn decision," doesn't that foretell which way the decision is supposed to go?

A. Of course, not.

Q. You don't think that that had any bias whatsoever on the rest of the panel when you were --

A. No. I think it was -- was -- I think it was reminding everyone in the room that this was a big deal. It was giving respect to Dr. Papin in the process that was being undertaken.

Q. But not -- you didn't have enough respect of

the process that was being undertaken to review the documents before this -- before this hearing --

MR. WHITFIELD: Object. Asked and answered. Move on, man. We've been here four hours.

THE WITNESS: Yeah. All I can say, I don't know why you would want me to pre-judge the case. Because on one hand, you're asking me to pre-judge the case, and then you're saying -- you're saying that I didn't pre-judge it. And then you're upset.

Q. (BY MR. SCHMITZ) I'm asking you if you did?

A. Of course, not.

Q. Okay. Isn't it true, that the first time Dr. Earl ever mentioned to Dr. Papin that he was lying or being untruthful about the events in writing, is in the document that they both signed on January 10th, 2017, which was the remediation plan that he thought he was required to do?

A. I'm sorry, I don't understand that question. Can you say it again, please.

Q. When was the first time that Dr. Papin ever documented -- or not Dr. Papin -- Dr. Earl ever documented in writing to Dr. Papin that there were issues regarding his truthfulness?

A. To the best of my recollection, based on the information that I received, as a -- it was would either

be in the November summative feedback document or in the -- in the postrotation feedback, but I'd have to look back to be sure.

Q. In the earlier meeting that we discussed earlier, the December 20th meeting, there's no mention made of lying in Dr. Earl's memorializing e-mail, is there?

A. I'd have to look at the e-mail. I'm not sure, was I a recipient of that e-mail?

Q. Okay. I sent another exhibit to the chat for review.

A. I can see it.

Q. At the bottom of the e-mail from Dr. Earl to his assistant Renee Greene, do you see that dated December 20th?

A. All I see is -- wait. Sorry. Yes. Yes, I see it. Uh-huh.

Q. Do you see Dr. Earl documenting or memorializing any instances of Dr. Papin lying in this December 20th e-mail regarding his discussion that he had with him on that same day?

A. I'll have to read it.

Q. Go ahead.

A. Okay. Can you ask your question again now that I've read it, please.

Q. Do you see any instances where Dr. Earl is pointing out the fact that Dr. Papin was being untruthful and lying about anything in the meeting that he had with him on December 20th as stated in this e-mail?

A. Based on this e-mail, I do not see any of that. No.

Q. There were issues regarding the decubitus ulcer, they were brought up shortly after this e-mail; correct?

A. Those were either in late December or early January, but I do believe they were after this e-mail. Yes.

Q. Okay. Dr. Papin only works after this e-mail at the UMMC actually, physically working seeing patients up until January 10th, 2017; correct?

A. I don't remember the exact date that he left, but that sounds about right.

Q. So somewhere between this one, this e-mail and December 20th and January 10, there was some instances of untruthfulness that were brought to the attention of Dr. Earl, which were then transmitted to you through the appeal hearing?

A. Yes.

Q. And that incident would have been Dr.

Mahoney's accusation that Dr. Papin did not tell her about the decubitus wound on the patient?

A. I believe that was one of them. Or I should say, yes, that was one of the items.

Q. Are you aware that Dr. Mahoney testified that she never looked at Mr. [redacted]'s chart?

A. I am not aware of that. I -- are you talking about in the hearing?

Q. No. At the -- during her deposition?

A. Oh, I have no knowledge of anyone's dep -- specifics of anyone's deposition at all. I -- I -- didn't even know she was deposed.

Q. And earlier I kind of talked about this, so if that was a lie and she had looked at the decubitus ulcer patient's chart 73 times between December 7th and December 20th, would that been something that would have drawn some suspicions on your part as to what the voracity, at least, occurred allegations against Dr. Papin?

A. I mean certainly the voracity of all the witnesses was important.

Q. Can you answer why you did not review the decubitus ulcer's medical chart as part of the termination review for Dr. Papin?

MR. WHITFIELD: I'm going to object.

He's asked and answered that probably three times already. But he can answer, if you can.

THE WITNESS: Because we had witness' testimony to it. We had what Dr. Mahoney said. We had what Dr. Papin said. So we were able to get it from them.

Q. (BY MR. SCHMITZ) Are you aware of the complaint that the decubitus ulcer patient's family -- are you aware of the complaint that the family made after Dr. Papin was gone that to UMMC, I think they reported to the office of Patient Affairs, that he was -- about a nurse leaving him in feces for approximately four hour time span after Dr. Papin was gone?

A. I don't know anything about that. No.

Q. If a complaint like that would have been made to the office of Patient Affairs, would they have picked up Mr. [redacted]'s patient chart and reviewed it to determine whether that happened or not?

A. They may or may not have. The individuals that staff the office of Patient Affairs, are not medical people. I frankly don't know what their -- I don't even know if they have access to the medical records. They're not nurses. They are patient affair specialists. When -- if that -- I'm speculating a little bit, but if that complaint had come into the

office of Patient Affairs, I believe they would have contacted the nursing unit that the patient was cared for to get some details on it and then responded.

Q. Would the review of Mr. [redacted]'s family complaint about the incident I just described about him sitting in the feces for four hours, would that have come under sort of your hostages as your -- for investigation of follow-up as your role as the Risk Management Director at UMMC?

A. It is unlikely that that would have come to us. It would have fallen under a different category of my job because as I noted at the beginning of our conversation here today, that I was the Chairman of the Grievance Committee for the hospital. And -- but in terms of patient complaints and grievances; although, that's important, it needs to be appropriately addressed, if it's true, that's not the kind of thing that would -- the specifics would have -- that would have gotten to that committee.

Q. Sitting here today, you never personally, actually looked over that; correct?

A. Not to my knowledge. The -- the -- it would -- I didn't know the name of the patient with the decubitus ulcer until six or seven minutes ago. So, theoretically, could that have come across my desk, yes.

But I --I -- I don't think so because that's something that -- that really wasn't within the scope of what I did every day.

Q. Was that brought to your attention as part of your role at the appeal hearing that there was a filed complaint about the same patient regarding the nursing care he was receiving?

A. Not that I recall.

Q. Who is Dr. Michael Henderson again?

A. Dr. Michael Henderson is the Chief Medical Officer for the University of Mississippi Medical Center.

Q. If the patient complaint came in, would he have reviewed the chart, the patient's family complaint, would he have had to review the chart?

A. It is unlikely. Possible, but unlikely.

Q. What is the Graduate Medical Education Committee?

A. To the best of my knowledge, the American College of Graduate Medical Education, requires every institution that has medical trainees; meaning, residents and fellows, to have a committee that over -- over -- has oversight over all of the individual programs.

So at a big medical center like UMMC, you have

a lot of different types of residents, you have surgery residents, you have internal medicine residents, you have pediatric residents, so there are many, many programs. 25 or 30 programs I'm sure; in addition, to those, you have subspecialty training. So Pediatric ICU like myself, those are separate programs. Each one of those programs is administered locally within that area training. So the Department of Pediatrics would have a program director for pediatrics. The division of pediatric critical care would have a program director for pediatric critical fellowship. All of those individuals are, in essence, supervised by the office of Graduate Medical Education.

The committee exist to review a lot of the things that surround -- surround those. And it's -- it could be many many things. It could be -- it could be the duty hours. It could be the adequacy of call room space. It could be funds for going to conferences. It could be, you know, if you didn't think your -- if you thought that your rotations were too heavily based on clinical service as opposed to truly receiving the teaching, they might review that. The committee is made up of a blend of faculty members as well as house staff, residents, and fellows.

Q. How many people are on the committee?

A. It's large. I don't know for sure. But it was in a -- I mean there were meetings that I was at where there were 20 -- more than 20 people there.

Q. At Dr. Papin's termination hearing, who decided which witnesses would be called?

A. I believe that it was Dr. Earl decided who -- what witnesses will be called on behalf of the Department of Surgery's Residency Program.

Q. Did he notify you in advance which witnesses would be called?

A. I don't know if I was notified exactly. I did see that there was a witness list on that letter that you showed me earlier that went out to Dr. Papin. But I don't believe I saw that letter before today. I don't recall seeing it before. But I don't believe that the witness list was discussed with me. No.

Q. Do you know if anyone had notified Dr. Papin that he had the ability to also call witnesses, if he wanted to?

A. I don't know whether that happened in advance. I certainly discussed it with Mr. Dillard during the hearing.

Q. Whose responsibility was it to let Joe -- Dr. Papin to know about these types of things, like call witnesses, documents, evidence, and all that kind of

stuff? If it wasn't you, then whose responsibility would it have been?

A. My assumption it would be the GME office.

Q. So Dr. Barr?

A. Well I -- Dr. Barr at that -- like I said, Dr. Barr and Dr. Schlessinger were having that handoff. I don't know when that formally occurred. But, ultimately, one of them or both.

MR. WHITFIELD: I'm going to object to that last question. He wasn't a 30(B)(6) witness for the institution on that topic. He can answer as best of his knowledge.

Q. (BY MR. SCHMITZ) When did you and the committee afterwards meet to make a decision on Dr. Papin's termination?

A. We met immediately after the hearing.

Q. Everybody was in person, this was a full in person meeting?

A. Correct.

Q. How long did you guys take to discuss the matter?

A. It was over an hour or close to it. I don't -- I wouldn't remember. It was not brief because it was late in the day.

Q. Is any portion of that meeting or notes

regarding the actual decision part of the meeting between the panel, was any of that taken down in writing?

A. No.

Q. Was anyone in attendance at the meeting other than the hearing panel?

A. No. Not to my recollection. I know that Dr. Barr and Dr. Earl were not there. But I think everybody left. I think the lawyers -- certainly, the lawyers all left.

Q. Do you agree when a resident is terminated in circumstances such as Dr. Papin as a danger to patients' safety, is likely never going to be accepted into another reputable residency program thereafter?

MR. WHITFIELD: Object to the form.

THE WITNESS: I think that it would be extraordinarily challenging to get another job. I think there are circumstances by which one could rehabilitate oneself, and if one had a compelling story about self-discovery, I think they -- they -- they would have a chance. But I -- it would be extraordinarily difficult. Yes.

Q. (BY MR. SCHMITZ) All right.

MR. SCHMITZ: I'm going to take two minutes. I think I'm about done here. And then I'll be

right back. Okay?

MR. WHITFIELD: Go ahead.

MR. SCHMITZ: I'm just going to make sure.

(Whereupon, a recess was taken at this time.)

MR. SCHMITZ: One more question.

Q. (BY MR. SCHMITZ) Do you believe that there was any conflict between your role for managing risk for UMMC and your ability to give Dr. Papin a fair hearing?

A. No.

Q. Why?

A. I believe that -- let me think about that a little bit differently. I think that doing right by our employees an our house staff, is everything that -- it is what quality safety risk management is about. So, you know -- you know, the house staff -- having house staff is a -- an any kind of trainees always presents risks for the institution.

But the education of these individuals is so important for the overall mission of the medicine, that -- that it's part of what we do. So I didn't really see it as a -- as that kind of role. I think that part of the problem is, that the perception of risk management is somebody who just wants to make troubles go away, and that's not really what it is in medicine. But risk

management and medicine is about -- is about learning and a constant process of improvement in excellence and, you know, in quality and patient safety.

My role in risk management was -- was -- was focused there, but also certainly in terms of there's an educational mission as well.

Q. So the fact that there were issues brought up regarding patient safety with Dr. Papin and potentially you being able to eliminate that risk by upholding his termination, did not factor into your decision at the appeal hearing?

A. Never entered into my mind a bit.

Q. All right.

MR. SCHMITZ: I have nothing further.

MR. WHITFIELD: Nothing further.

(Whereupon, deposition concluded at 5:30 p.m.)

SIGNATURE/NOT WAIVED

ORIGINAL: MR. GREGORY SCHMITZ, ESQ.
COPY: MR. TOMMY WHITFIELD, ESQ.

CERTIFICATE OF THE DEPONENT

DEPONENT: Steven Bondi, M.D.
DATE: February 3rd, 2021
CASE STYLE: Joseph Papin vs. University of Mississippi Medical Center; Dr. Louann Woodward, Dr. T. Mark Earl

I, the above-named deponent in the deposition taken in the herein styled and numbered cause, certify that I have examined the deposition taken on the date above as to the correctness thereof, and that after reading said pages, I find them to contain a full and true transcript of the testimony as given by me.

Subject to those corrections listed below, if any, I find the transcript to be the correct testimony I gave at the aforestated time and place.

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This the ____ day of _____, 2021.

_____
STEVEN BONDI, M.D.

State of Mississippi
County of _____

Subscribed and sworn to before me, this the _____ day of _____, 2021.

My Commission Expires:

_____ _____
Notary Public

C E R T I F I C A T E

STATE OF MISSISSIPPI

COUNTY OF HINDS

I, MELLIE PIERCE, hereby certify that the above and foregoing deposition was taken down by me on Computerized Stenotype, and the questions and answers thereto were transcribed by me, and that the foregoing represents a true and correct transcript of the deposition given by said witness upon said hearing.

I further certify that I am neither of counsel nor of kin to the parties in the action, nor am I in any way interested in the result of said cause.

Witness my signature this the 14th day of February, 2021.

Mellie M. Pierce

MELLIE M. PIERCE, CCR #1933

My Commission Expires: 10/27/23

57:23